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Compilation on India

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of the information contained in the reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies[1,2]

2. The United Nations country team indicated that the recommendations contained in the previous reviews[3] regarding the ratification of several international instruments had not been implemented.[4] Such recommendations were reiterated by treaty bodies,[5] and the Special Rapporteur on extrajudicial, summary or arbitrary executions also recommended that India consider ratifying Protocols I and II additional to the Geneva Conventions of 12 August 1949.[6]

3. The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context recommended that India submit its report to the Committee on Economic, Social and Cultural Rights; that the recommendation made to it in the previous universal periodic review relating to housing, living conditions and poverty be implemented; and that it use the universal periodic review to commit to implementing the recommendations made to it in the report of the Special Rapporteur.[7]

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4. The country team highlighted the standing invitation by India and that three mandate holders had completed their visits during the reporting period. Another 15 other special procedure mandate holders had requested a visit, of which two had been accepted.[8]

5. In 2016, the United Nations High Commissioner for Human Rights (OHCHR) expressed deep regret at, inter alia, the failure of authorities to grant the Human Rights Office access to India-administered Jammu and Kashmir, given the grave concerns about recent allegations of serious human rights violations, including on the excessive use of force.[9]

6. India had contributed annually to OHCHR since 2012.[10]

III. National human rights framework[11]

7. The Special Rapporteur on executions indicated that the situation regarding the use of force in India had been exacerbated by what in effect though not in law could constitute emergency measures. The Armed Forces (Special Powers) Act, enacted in 1958, had regulated instances of the use of special powers by the armed forces in "disturbed areas" of the country (as declared by governors).[12] The Act had provided wide-ranging powers to the armed forces in respect of using lethal force in various instances but had failed to provide safeguards in case of excessive use of such powers.[13] In his follow-up report, the Special Rapporteur recalled that the Supreme Court had upheld the constitutionality of the Act and had provided several conditions on the use of the special powers conferred on the armed forces by the Act. The Government in its comments had strenuously opposed that part of the report.[14] He also noted that a commission appointed by the Supreme Court had stated that it was time to progressively de-notify areas of the State under the Act.[15]

8. The Special Rapporteur indicated that India should repeal or at least radically amend the Armed Forces (Special Powers) Act and the Jammu and Kashmir Armed Forces (Special Powers) Act, with the aim of ensuring that the legislation regarding the use of force by the armed forces provided for the respect of the principles of proportionality and necessity in all instances, as stipulated under international law. He also indicated that it should remove all legal barriers for the criminal prosecution of members of the armed forces.[16] He recommended that, while waiting for the necessary repeal or amendment of the Act, India ensure that the status of "disturbed area" was subjected to regular review and that a justified decision was made on its further extension. He noted information received that the states of the North-East and Jammu and Kashmir regions continued to be declared "disturbed areas" without any deliberation, justification or reference to the scale of insurgency in the respective areas.[17] The country team reported that the Act had been withdrawn from Tripura in 2015, but continued to be in operation in Jammu and Kashmir and parts of the North-East. It also reported that recommendations for the repeal of the Act had been reiterated by the Justice Verma Committee and Justice Hegde Commission.[18]

9. The Special Rapporteur indicated that India should swiftly enact the Prevention of Torture Bill and ensure its compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[19] According to the country team, the Government had finalized an amended draft of an anti-torture bill that was expected to be soon placed before Parliament.[20]

10. The Special Rapporteur on executions noted that the record of the National Human Rights Commission had included important steps in protecting the right to life, but observed that the Commission's effective functioning had been partially hampered by its mandate.[21] Regarding the functioning of state human rights commissions, he found they inspired little confidence, owing to their lack of independence from the authorities, their limited resources and consequently their limited effectiveness.[22] He indicated that no steps

had been taken to: amend section 19 of the Protection of Human Rights Act to provide the Commission with the express authorization to investigate members of the armed forces for alleged human rights violations;[23] put in place the legal basis to enable the extension of the period of one year under which the Commission could consider cases;[24] and review the independence and functioning of state human rights commissions to ensure compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).[25] The country team reported that, in a recent judgment, the Supreme Court had drawn attention to the lack of resources available to the Commission and the need to strengthen its enforcement value.[26]

11. The Special Rapporteur on violence against women, its causes and consequences referred to reported failures of the thematic National Commission for Women, including by finding that no particular religious group had been targeted during the 2002 Gujarat massacre; by consistently justifying sexual assault on women as a result of "provocative dressing"; and by denying reports of sexual violence by security forces, including in regions governed by the Armed Forces (Special Powers) Acts.[27]

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination[28]

12. The Special Rapporteur on violence against women reported that the lack of registration and the difficulty in obtaining an identity card had impeded women's participation, including their access to essential services.[29] The Committee on the Elimination of Discrimination against Women was particularly concerned at bureaucratic obstacles and financial barriers preventing women from scheduled castes and scheduled tribes from registering births and obtaining birth certificates for their children.[30] The Office of the United Nations High Commissioner for Refugees (UNHCR) indicated that the new *Aadhaar* biometric identification card, issued by the authorities, was required in order to gain access to services, including education.[31] The country team explained the intentions of the Government to integrate the social protection system and target cash transfers through the *Jan Dhan Yojana* programme to facilitate financial inclusion, resulting in the creation of 250 million bank accounts; the *Aadhaar* card, which was held by about 1 billion Indians and which linked to their bank accounts; and mobile telephone applications linking the *Aadhaar* card to its owner's bank account (approximately 1 billion Indians had mobile telephones).[32]

13. In 2016, the Special Rapporteur on minority issues highlighted that, according to official data, Dalits (referred to as "scheduled castes") constituted more than 201 million people. The figure did not include Dalits who had converted or were born and raised within non-Hindu religious communities, such as the Dalit Muslim and Christian communities.[33] She also reported on the discrimination, exclusion, dehumanization, stigmatization and violence suffered by scheduled castes.[34] The country team pointed out that, according to the National Crime Records Bureau, 47,064 cases of crimes against Dalits had been registered in 2014, up from 39,408 in 2013. Furthermore, according to the National Commission for Scheduled Castes, the highest number of registered cases of crimes against scheduled castes in the period 2013-2015 had been in the states of Uttar Pradesh, Rajasthan and Bihar.[35] The Special Rapporteur on executions noted with concern that the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 had not incorporated Dalit

Muslims and Christians into the definition of scheduled castes and scheduled tribes, and recommended that the legislation be reviewed to extend the definition.[36]

14. The Special Rapporteur on minority issues explained that manual scavenging constituted a caste-designated occupation that was mainly imposed upon Dalits, particularly Dalit women, who represented 95 per cent of manual scavengers. Despite the passing of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act in 2013, the practice reportedly persisted, institutionalized through State practice, with local governments and municipalities employing manual scavengers.[37] The country team referred to reports that as few as 13 per cent of women had benefited under the manual scavengers rehabilitation scheme.[38]

15. In 2016, the Special Rapporteur on housing expressed concern at the legacy of India regarding discrimination against scheduled castes and tribes and so-called "backward" classes, and against women, particularly single and widowed women, and various religious minorities. She noted that the majority of homeless people or those residing in slums with the worst housing conditions were members of those and other vulnerable groups.[39] The country team reported that 54.71 per cent of scheduled caste households were landless in 2013. It referred to information from the post-Sachar Evaluation Committee on the poor living conditions of Muslims in urban areas and the lack of basic services in settlements with high Muslim populations in urban and rural areas.[40] The Special Rapporteur recommended that India enact legislation to curb all forms of de facto housing discrimination against any individual or group, especially religious or ethnic minorities, women, scheduled castes or scheduled tribes, internal migrants or manual scavengers.[41]

16. The Special Rapporteur on violence against women noted that sex workers were exposed to a range of abuse. Many sex workers were forcibly detained and rehabilitated and faced a consistent lack of legal protection. Many faced challenges in gaining access to essential health services, including for treatment for HIV/AIDS and sexually transmitted diseases.[42] She recommended that India review the Immoral Traffic (Prevention) Act 1956, which criminalized sex work.[43]

17. The country team reported on a 2014 landmark judgment of the Supreme Court affirming the equal rights of transgender persons and that, in 2014, the same Court had overturned a 2009 judgment by the Delhi High Court that had decriminalized consensual same-sex relationships between adults.[44] Referring to a recommendation,[45] the Committee on the Elimination of Discrimination against Women urged India to make efforts towards eliminating the criminalization of same-sex relations.[46] The Special Rapporteur on violence against women recommended that India repeal section 377 of the Penal Code.[47]

2. Development, the environment, and business and human rights[48]

18. The country team welcomed the "whole-of-Government" approach to the implementation of the Sustainable Development Goals.[49]

19. While commending the commitment of India to addressing climate change, the country team referred to concerns at the relaxation of norms for environmental impact assessments and application procedures under the Forest Conservation Act.[50]

20. Concerned about the forced displacement of a large number of children and their families and the loss of their ancestral lands owing to manufacturing operations, the Committee on the Rights of the Child recommended that India: establish and implement regulations to ensure that the business sector complied with international and national human rights, labour, environment and other standards; and require that companies undertake assessments of, consultations in relation to and full public disclosure of the environmental, health-related and human rights impacts of their business activities, and reveal their plans to address such impacts.[51]

B. Civil and political rights

1. Right to life, liberty and security of person[52]

21. In 2014, two special procedures mandate holders welcomed a decision by the Supreme Court to commute to life imprisonment the death sentences of 15 individuals and to introduce guidelines safeguarding the rights of people on death row.[53] The Special Rapporteur on executions invited India to consider implementing as a priority the recommendation to review legislation to provide that the death penalty could only be imposed for the most serious crimes.[54]

22. The Special Rapporteur took note of reports regarding deaths resulting from the excessive use of force by security officers with little adherence to the principles of proportionality and necessity as defined under international human rights law standards.[55] He noted that section 46 of the Criminal Procedure Code authorized law enforcement officials to use "all means necessary" to perform an arrest that was forcibly resisted, and recommended that India review the Code and legislation in all states regarding use of force, including the exceptional use of lethal force, by all security officers to ensure compliance with international human rights law principles.[56] He regretted that section 46 had not been reviewed or amended.[57]

23. The Special Rapporteur also took note of reports of "fake encounters", whereby suspected criminals or persons alleged to be terrorists or insurgents had been fatally shot by security officers.[58] He indicated that justice for victims, accountability and punishment of the perpetrators was essential and that specific attention should be given to: challenging the general culture of impunity; eliminating the practice of "fake encounters"; and ensuring that swift, decisive action, with concrete outcomes, was taken in cases of large-scale killings.[59]

24. The Special Rapporteur took note of reports of cases of deaths while in custody and recommended that autopsies be carried out in conformity with international standards and that the families of victims be given full and easy access to autopsy reports, death certificates and other relevant documentation.[60] The Special Rapporteur on violence against women indicated that violence against women in custodial settings remained a concern.[61]

25. Deeply concerned about the reported high level of violence against women in conflict-affected regions, the Committee on the Elimination of Discrimination against Women called upon India to: review promptly the continued application of the Armed Forces (Special Powers) Act and related protocols; amend and/or repeal the Act and protocols in order for sexual violence against women perpetrated by members of the armed forces to be brought under the purview of ordinary criminal law; to enable prosecution in all pending cases; and enforce a code of conduct for members of the armed forces to effectively respect women's rights.[62]

2. Administration of justice, including impunity, and the rule of law[63]

26. The Special Rapporteur on executions indicated that delays in judicial proceedings constituted one of the most serious challenges that India faced and had clear implications for accountability.[64] He recommended that India consider launching a process of reflection on the need to reform its judiciary, with the aim of reducing the length of judicial proceedings and strengthening the independent functioning of the judiciary.[65]

27. The Special Rapporteur was concerned that section 197 of the Criminal Procedure Code required prior sanction from the government concerned before cognizance could be taken of any offence by a public servant for criminal prosecution, effectively rendering a public servant immune from criminal prosecution.[66] He recommended that such legal barriers for the prosecution of public servants be removed and that section 197 of the Criminal Procedure Code be reviewed.[67] He welcomed that an explanation had been added

to the Code to clarify that no prior sanction was necessary for the prosecution of public servants accused of sexual offences, but indicated that for all other crimes the prior sanction provision continued to be a major hurdle for victims in securing remedies.[68]

28. The Special Rapporteur reported that the fight against impunity faced challenges at various stages of the accountability process. He noted numerous allegations that, when reporting a crime, including those related to killings or death threats, security forces often refused to register a first information report. Additionally, Dalits, the representatives of lower castes, tribes and poorer communities and women were particularly exposed to difficulties in registering such reports. Individuals who wished to report violations by security officers faced similar challenges.[69] He recommended that the authorities put in place an independent mechanism to monitor the registration of first information reports and that they punish those law enforcement officials who refused to register them.[70]

29. The country team indicated that the new Juvenile Justice (Care and Protection) Act 2015 allowed juveniles aged 16-18 years to be prosecuted as adults.[71]

3. Fundamental freedoms and the right to participate in public and political life[72]

30. The Special Rapporteur on executions noted that numerous reports concerning major incidents of communal violence had indicated an often wilful failure by State forces to protect citizens.[73] He also noted information that communal violence was often planned in order to target members of a particular group or acquire its property.[74]

31. The country team indicated that incidents of religious minorities being targeted during riots, such as in Muzzafarnagar, particularly prior to elections, needed to be addressed. It also noted that the Prime Minister had condemned incidents of violence stemming from allegations of cow slaughter as attempts to "poison social harmony".[75]

32. The United Nations Educational, Scientific and Cultural Organization (UNESCO) reported that it had recorded 24 killings of journalists. It urged the Government to continue to investigate such cases and to report voluntarily to UNESCO on judicial follow-up measures.[76]

33. The country team reported that several incidents at universities in 2016 had triggered debate on the application of penal provisions relating to "hate speech", "sedition" and the use of section 144 of the Penal Code to prohibit the rights to assemble and to protest. The assassinations of well-known rationalists had added to the concerns about the reduced space for free speech and expression.[77]

34. UNESCO made recommendations, including that India decriminalize defamation and place it within a civil code that was in accordance with international standards,[78] and that it review section 22 (4) of the Right to Information Act 2005 in order to remove unnecessary restrictions for requests related to human rights violations.[79]

35. The Committee on the Elimination of Discrimination against Women urged India to remove restrictions on the work of human rights defenders, not to place them under surveillance and to ensure that women in the north-eastern states participated in peace negotiations and in the prevention, management and resolution of conflicts.[80] The Special Rapporteur on the rights to freedom of peaceful assembly and association expressed concern at the restrictions imposed on human rights organizations and reminded India of its obligation to ensure that all members of civil society, including human rights defenders, were able to carry out their legitimate work in freedom and in a safe and enabling environment without fear of threats or acts of intimidation, harassment or assassination of any sort.[81]

36. In that regard, in 2016, the Special Rapporteur and several other special procedure mandate holders called upon India to repeal the Foreign Contribution Regulation Act,

which had been increasingly used to obstruct civil society's access to foreign funding, and had failed to comply with international human rights norms and standards. The experts noted that many civil society organizations depended on being accredited under the Act in order to receive foreign funding. However, the broad and vague terms contained in the Act, such as "political nature", "economic interest of the State" or "public interest", did not conform to its prescribed aim, and were not proportionate responses to the purported goal of the restriction.[82]

37. The Committee on the Elimination of Discrimination against Women reiterated the recommendation that India enact the Women's Reservations Bill to reserve at least 33 per cent of the seats in the state and central legislative bodies for women candidates.[83]

4. Prohibition of all forms of slavery[84]

38. While acknowledging the measures adopted, the Committee on the Elimination of Discrimination against Women remained concerned at the alarming persistence of internal and cross-border trafficking, the lack of protection and services available to women and girls who were victims of trafficking and sexual exploitation and the lack of efforts to address the root causes.[85] Concerning recommendations on trafficking,[86] UNHCR referred to the draft trafficking of persons (prevention, protection and rehabilitation) bill 2016, which proposed, inter alia, the creation of a special agency to investigate such crimes, as well as special courts and public prosecutors to expedite the prosecution of those found guilty and to hold perpetrators and traffickers accountable.[87]

C. Economic, social and cultural rights

1. Right to an adequate standard of living[88]

39. The Special Rapporteur on housing observed the stark contrast in India between extreme poverty and deprivation on the one hand and extreme wealth on the other hand, and that the gap between them was growing steadily and visibly.[89] The country team referred to the recommendation from the Task Force on Elimination of Poverty in India that a separate committee be constituted to identify those people living below the poverty line.[90]

40. The country team identified the urgent need to establish a social protection floor, and to recognize equal pay for work of equal value and women's unpaid care and domestic work.[91]

41. The country team reported on the National Food Security Act 2013, which provided for subsidized food grains and nutritional support to be given to pregnant and nursing women and children, including through the integrated child development services. It indicated that an efficient and functioning public distribution system was essential, and that the Government was focusing on reforms so that pilferage and inefficiency in the system could be removed.[92]

42. The Committee on the Rights of the Child was concerned by the low number of people with access to safe water, sanitation and hygiene and the widespread practice of open defecation and its negative impact on health, specifically child deaths from diarrhoea.[93] The country team reported the government target to make India free from open defecation by 2019, despite the fact that it was still a reality for 564 million people. It indicated that reducing the high bacteriological contamination of water sources, especially in rural areas, was a critical challenge.[94]

43. The Special Rapporteur on housing noted that India had the largest number of urban poor and landless people in the world. She praised the "Housing for All" scheme and stated that the important steps taken could result in the realization of the right to adequate housing

for hundreds of millions of vulnerable people. She recommended that the central Government and state governments deal with homelessness as an urgent priority, with a view to eliminating it by 2030, in keeping with target 11.1 of the Sustainable Development Goals, and that the structural causes of homelessness in urban and rural India be identified, including in relation to access to land and housing, affordability and the lack of specific measures in favour of people without an income.[95]

2. Right to health[96]

44. The country team welcomed the draft national health policy (2016) aimed at doubling government expenditure on health to 2.5 per cent of gross domestic product by 2020, and the new health insurance scheme for families living below the poverty line. However, it indicated that the public sector only provided about 30 per cent of all health services, and that vast inequalities persisted in gaining access to health services across different regions and social groups, while high out-of-pocket expenditure on health care had pushed about 63 million people into poverty.[97]

45. The country team took note of the "Delhi Declaration", signed by 20 countries in 2015, which called for accelerated progress towards ending preventable child and maternal deaths.[98] Treaty bodies commented on the high rates of neonatal mortality and maternal mortality.[99] The Committee on the Rights of the Child reported that the high levels of stunting, acute malnutrition and underweight children were closely linked to maternal undernutrition, anaemia and inadequate feeding practices. It recommended that India ensure the effective implementation of the National Food Security Act 2013 and promote breastfeeding and micronutrient interventions for mothers.[100]

46. In 2015, several special procedure mandate holders reported on the practice of coerced, unsafe and unethical female sterilization in Government-sponsored sterilization camps. In November 2014, sterilizations performed in Chhattisgarh had resulted in the deaths of 13 women and critical injuries to many others. Similar incidents had occurred since then, notably in Uttar Pradesh, Jharkhand and Madhya Pradesh.[101] The country team highlighted the fact that a judgment by the Supreme Court to put an end to sterilization camps was an opportunity to bring about far-reaching changes in the quality of contraceptive services.[102]

47. The country team referred to the 2014 launch of the National Adolescent Health Strategy and noted that its implementation needed to be strengthened.[103] The Committee on the Rights of the Child recommended that sexual and reproductive health education be made part of the mandatory school curriculum and be aimed at adolescent girls and boys; and that measures be taken to raise awareness of and foster responsible parenthood and sexual behaviour, with particular focus on boys and men.[104]

3. Right to education[105]

48. The country team indicated that, at 3.9 per cent of gross domestic product, the amount that India spent on education was the lowest among all the BRICS countries (Brazil, Russian Federation, India, China and South Africa), and that the quality of education in rural areas was an issue.[106] Estimates by the United Nations suggested that 17.8 million children — including 34 per cent of children with disabilities — did not attend school. Dalit, Adivasi and Muslim children and those from female-headed households were particularly vulnerable to educational exclusion. As at 2014, a total of 244,000 schools did not have toilet facilities.[107]

49. The country team referred to the *Beti Bachao Beti Padhao* ("Save the Girl, Educate the Girl") campaign to create a momentum towards ensuring the education and participation of the girl child, and the *Swacch Vidyalaya Abhiyan* ("Clean School

Campaign") launched in 2014.[108] It indicated that more impetus was required to increase girls' secondary education.[109]

50. The Committee on the Elimination of Discrimination against Women expressed its concern about the low retention and completion rates of girls at the secondary level due to early marriage, harmful practices and poverty, especially in rural areas. It reiterated its previous concluding observations and called upon India to: allocate increased resources; ensure that schools were girl-friendly, within a reasonable distance of communities and had supplies of potable water and separate hygienic toilets for girls; and address safety issues for girls in and out of school, including through the use of escorts to schools for girls in unsafe areas and the effective investigation and prosecution of acts of corporal punishment, harassment or gender-based violence against girls at school.[110]

51. The Committee on the Rights of the Child was seriously concerned about attacks on school facilities by non-State armed groups and the occupation of schools by security forces. It urged India to prohibit the occupation of schools by security forces and to rehabilitate and repair damaged schools.[111]

D. Rights of specific persons or groups

1. Women[112]

52. The Committee on the Elimination of Discrimination against Women expressed concern at the persistence of harmful traditional practices, such as the high number of dowry deaths, so-called "honour killings", sex-selective abortion, *sati*, *devadasi* and women accused of witchcraft.[113] The Special Rapporteur on violence against women noted that widows were often denied and dispossessed of property, and that social exclusion had led some to engage in sex work and their children to perform hazardous labour or beg on the streets.[114]

53. The Special Rapporteur noted that customary practices in the family and community pointed to a pattern whereby parents preferred to have sons over daughters. She indicated that research had revealed the declining ratio of girls to boys, and the continuing prevalence of sex-selection practices in some states, despite specific legislation to address the problem.[115] The country team welcomed greater focus on improving gender outcomes. The flagship *Beti Bachao Beti Padhao* campaign had been launched in 2015 with the objective of preventing gender-biased sex selection and addressing the imbalance in the gender ratio. Cash incentive schemes to promote education and encourage people to delay marriage had shown varied results and needed to be complemented.[116]

54. The Special Rapporteur on violence against women noted that early marriages continued to endanger girls' lives.[117] The Committee on the Elimination of Discrimination against Women also expressed concern about the high prevalence of early and forced marriage. It reiterated its recommendations[118] that India withdraw its declarations regarding the Convention and that it review the application of the Special Marriage Act to remove procedural barriers regarding the application for permission to marry and the registration of marriages.[119]

55. The Special Rapporteur indicated that violence against women had become a priority political issue following the brutal gang rape and tragic death of a young student in New Delhi in 2012. As a consequence, the Verma Committee had been established by the Government to review existing normative gaps.[120] Regarding the partial implementation of a noted recommendation,[121] the Rapporteur reported on the Criminal Law (Amendment) Act 2013, which: recognized acid attacks as a new criminal offence; provided for penalties for sexual harassment, assault against or use of criminal force on a woman with the intent to disrobe, voyeurism and stalking; introduced the crime of trafficking; and criminalized rape

and gang rape.[122] UNHCR reported that, in accordance with the Act, the police would also be penalized for failing to register first information reports.[123]

56. The country team reported that marital rape continued to be outside the ambit of criminal law. It indicated that section 357-A of the Code of Criminal Procedure had introduced the concept of reparations in criminal cases, and that all states in India had established victim compensation schemes, although their scope and implementation varied. It noted that the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 had been enacted. The country team reiterated the recommendations for the criminalization of marital rape and "honour crimes".[124]

57. The Special Rapporteur on violence against women reported that the lack of implementation of the Protection of Women from Domestic Violence Act was a concern. The attitudes and prejudices of many village leaders in *Khap Panchayats* (local councils), who acted as informal judicial officers, often led to a pre-arranged settlement between families, thus failing to provide effective redress for victims.[125] The Rapporteur recommended that India implement in full and throughout the country the ban by the Supreme Court on *Khap Panchayats*.[126]

58. The Committee on the Elimination of Discrimination against Women urged India to establish one-stop crisis centres to provide women and girls who were victims of violence and rape with free and immediate access to medical attention, psychological counselling, legal aid, shelter and other support services.[127]

2. Children[128]

59. The Committee on the Rights of the Child recommended that India increase social budget allocations, establish a budgeting process with a child-rights perspective and take all measures necessary to prevent and combat corruption.[129]

60. The country team pointed to the fact that the Protection of Children from Sexual Offences Act 2012, adopted since the previous review, had increased the age of consent to 18 years.[130] The Committee on the Elimination of Discrimination against Women urged India to: ensure that the Act was implemented without exception; void all child marriages automatically; and ensure that the Act applied also to child brides.[131]

61. The Committee on the Rights of the Child noted that one in three rape victims in India was a child.[132] The Committee on the Elimination of Discrimination against Women was concerned about the retention in the Penal Code of an exemption from punishment when a rape was committed by the victim's husband if the wife was over 15 years of age.[133] The Committee on the Rights of the Child urged India to ensure that all forms of sexual abuse of girls under 18 years of age, including marital rape, were fully criminalized.[134]

62. Several treaty bodies encouraged India to raise awareness about the prohibition on child marriage and its spectrum of harms, including reproductive health issues, maternal and infant mortality and violence.[135] The country team indicated that, in 2013, the Government had proposed a national strategy on the elimination of child marriage and an action plan to implement it. However, the measures were pending finalization.[136]

63. The Committee on the Rights of the Child recommended that India establish a national database of all cases of violence against children, and explicitly prohibit all forms of corporal punishment of children under 18 years of age in all settings.[137]

64. The country team referred to the Child Labour (Prohibition and Regulation) Amendment Act 2016, which set at 14 years the general minimum age for employment and raised to 18 years the legal age at which people could engage in hazardous work. Areas of concern included the exception granted to family enterprises, which could increase

impunity and child labour, and the substantial reduction in the list of professions considered to be hazardous.[138]

65. Additional issues raised by the Committee on the Rights of the Child included the sale of children through surrogacy and adoption and the recruitment or use of children by non-State armed groups.[139]

3. Persons with disabilities[140]

66. The Committee on the Elimination of Discrimination against Women urged India to enact the Rights of Persons with Disabilities Bill, 2014 without delay and include in it a specific section to protect women and girls with intellectual disabilities from forced sterilization, and to repeal laws so as to prohibit disability-based detention of women, including involuntary hospitalization and forced institutionalization.[141] The country team noted that the Bill was pending with Parliament and supported the undertaking of a comprehensive legislative gap analysis to enable the alignment of legislation with the Convention on the Rights of Persons with Disabilities. It stressed that efforts were required regarding the issuance of disability certificates in order to gain access to entitlements, as only 49.5 per cent of people with disabilities in 2015 had been issued with such a certificate.[142]

4. Minorities and indigenous peoples[143]

67. The Committee on the Elimination of Discrimination against Women called upon India to adopt an integrated policy to enhance the living conditions of women and girls who had survived the Gujarat riots, and to intensify witness protection and security measures. [144]

68. In 2012, the International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations reported that the national tribal policy was under consideration and requested information on the progress made for its development and adoption, including in collaboration and consultation with tribal groups and their representatives.[145]

5. Migrants, refugees and asylum seekers[146]

69. Although the recommendation made in the previous review cycle[147] to accede to the 1951 Convention relating to the Status of Refugees, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness had not been supported, UNHCR hoped that India could reconsider its position on the matter.[148]

70. The United Nations High Commissioner for Refugees recommended that refugees be issued with *Aadhaar* identification cards to enable them to have access to services on an equal footing to nationals.[149]

6. Stateless persons[150]

71. UNHCR reported, inter alia, that a group of Sri Lankan refugees, the Hill Tamils, were stateless or at risk of becoming stateless.[151]

Notes

[1] Tables on the scope of international obligations and cooperation with international human rights mechanisms and bodies for India will be available at www.ohchr.org/EN/HRBodies/UPR/Pages/INSession27.aspx.

[2] For relevant recommendations, see A/HRC/21/10, paras. 138.1-138.30, 138.32, 138.36-138.38, 138.63-138.70, 138.95, 138.101, 138.112-138.113, 138.121 and 138.128.

[3] For relevant recommendations, see A/HRC/21/10 and Add.1, paras. 138.1 (Spain), 138.3 (United Kingdom of Great Britain and Northern Ireland), 138.4 (United States of America), 138.5 (Iraq), 138.6 (Republic of Korea), 138.7 (Italy), 138.8 (Maldives), 138.10 (Uruguay), 138.12 (Australia), 138.13 (Austria), 138.14 (Slovakia), 138.15 (Botswana), 138.16 (Brazil), 138.17 (Czech Republic), 138.18 (Portugal), 138.19 (Brazil), 138.21 (Czech Republic), 138.23 (Republic of Korea), 138.24 (France), 138.26 (Ghana), 138.28 (Sweden), 138.29 (Indonesia),138.30 (Slovakia), 138.32 (Switzerland), 138.36 (Timor-Leste), 138.37 (Timor-Leste), 138.38 (Costa Rica), 138.95 (France), 138.101 (Portugal), 138.112 (Ireland), 138.128 (Hungary); and A/HRC/8/26 and Add.1, paras. 86.1 (United Kingdom, France, Mexico, Nigeria, Italy, Switzerland and Sweden), 86.6 (Brazil), 86.7 (Brazil, Sweden), 86.9 (Netherlands) and 86.12 (Nigeria).

[4] See country team submission for the universal periodic review of India, para. 5.

[5] See CEDAW/C/IND/CO/4-5, paras. 42 and 47, and CRC/C/IND/CO/3-4, para. 89.

[6] See A/HRC/23/47/Add.1, para. 98.

[7] See A/HRC/34/51/Add.1, para. 85 (o).

[8] See country team submission, para. 13.

[9] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20382&LangID=E.

[10] OHCHR, "Donor profiles", in *OHCHR Report 2015*, p. 108.

[11] For relevant recommendations, see A/HRC/21/10, paras. 138.3-138.4, 138.6, 138.12, 138.24, 138.32-138.36, 138.44-138.45, 138.54-138.60, 138.63-138.64, 138.71, 138.75 and 138.133.

[12] See A/HRC/23/47/Add.1, para. 21. See also A/HRC/29/37/Add.3, para. 15, and A/HRC/23/47/Add.7, para. 1.

[13] See A/HRC/23/47/Add.1, paras. 21-22. See also A/HRC/29/37/Add.3, paras. 15-16, and A/HRC/23/47/Add.7, para. 1.

[14] See A/HRC/29/37/Add.3, para. 16. See also A/HRC/23/47/Add.7, para. 1.

[15] See A/HRC/29/37/Add.3, para. 18. See also A/HRC/23/47/Add.7.

[16] See A/HRC/23/47/Add.1, para. 100.

[17] See A/HRC/29/37/Add.3, para. 19. See also A/HRC/23/47/Add.1, para. 101, and A/HRC/23/47/Add.7.

[18] See country team submission, para. 42.

[19] See A/HRC/23/47/Add.1, para. 99.

[20] See country team submission, para. 5.

[21] See A/HRC/23/47/Add.1, paras. 88-89. See also A/HRC/29/37/Add.3, paras. 56-58.

[22] See A/HRC/23/47/Add.1, para. 90. See also A/HRC/23/47/Add.1, para. 123, and A/HRC/29/37/Add.3, para. 59.

[23] See A/HRC/23/47/Add.1, para. 120, and A/HRC/29/37/Add.3, para. 57.

[24] See A/HRC/23/47/Add.1, para. 121, and A/HRC/29/37/Add.3, para. 58.

[25] See A/HRC/23/47/Add.1, para. 123, and A/HRC/29/37/Add.3, para. 59.

[26] See country team submission, para. 11.

[27] See A/HRC/26/38/Add.1, para. 58. See also para. 78 (n).

[28] For relevant recommendations, see A/HRC/21/10, paras. 138.43, 138.47, 138.53, 138.65, 138.68, 138.71-138.73, 138.75, 138.87, 138.89-138.90, 138.118, 138.131-138.132, 138.162-138.163 and 138.167. See also A/HRC/8/26, paras. 86.5 and 86.13.

[29] See A/HRC/26/38/Add.1, para. 34.

[30] See CEDAW/C/IND/CO/4-5, para. 34.

[31] UNHCR submission for the universal periodic review of Morocco, pp. 2 and 7.

[32] See country team submission, para. 88.

[33] See A/HRC/31/56, para. 33.

[34] Ibid., paras. 22, 29-30, 50, 59, 62, 80, 82, 85 and 93. See also A/HRC/21/42, para. 22, and www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19861&LangID=E.

[15] See country team submission, para. 39.
[16] See A/HRC/23/47/Add.1, paras. 80 and 104. See also A/HRC/29/37/Add.3, para. 48.
[17] See A/HRC/31/56, para. 72.
[18] See country team submission, para. 38.
[19] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19861&LangID=E. See also A/HRC/34/51/Add.1, paras. 62-73.
[20] See country team submission, para. 84.
[21] See A/HRC/34/51/Add.1, para. 85 (g).
[22] See A/HRC/26/38/Add.1, para. 20.
[23] Ibid., para. 78 (e).
[24] See country team submission paras. 26 and 28.
[25] For the relevant recommendation, see A/HRC/21/10, para. 138.89 (Argentina).
[26] See CEDAW/C/IND/CO/4-5, para. 11 (i).
[27] See A/HRC/26/38/Add.1, para. 78 (d).
[28] For relevant recommendations, see A/HRC/21/10, paras. 138.51 and 138.168.
[29] See country team submission, para. 90. See also para. 87.
[30] Ibid., para. 92.
[31] See CRC/C/IND/CO/3-4, paras. 29-30.
[32] For relevant recommendations, see A/HRC/21/10, paras. 138.44, 138.79, 138.91-138.101 and 138.119-138.121.
[33] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14205&LangID=E.
[34] See A/HRC/29/37/Add.3, para. 25. See also A/HRC/23/47/Add.1, paras. 106-107, and country team submission, para. 6.
[35] See A/HRC/23/47/Add.1, para. 8. See also A/HRC/29/37/Add.3, para. 10.
[36] See A/HRC/23/47/Add.1, para. 102. See also A/HRC/29/37/Add.3, para. 11.
[37] See A/HRC/29/37/Add.3, para. 11.
[38] See A/HRC/23/47/Add.1, para. 13. See also A/HRC/29/37/Add.3, para. 13.
[39] See A/HRC/23/47/Add.1, para. 94.
[40] See A/HRC/29/37/Add.3, paras. 20 and 22. See also A/HRC/23/47/Add.1, paras. 29-33 and 117.
[41] See A/HRC/26/38/Add.1, para. 24.
[42] See CEDAW/C/IND/CO/4-5, para. 13 (a)-(b) and (d).
[43] For relevant recommendations, see A/HRC/21/10, paras. 138.4, 138.62, 138.117-138.124 and 138.127.
[44] See A/HRC/23/47/Add.1, para. 67.
[45] Ibid., para. 125. See also A/HRC/29/37/Add.3, para. 44.
[46] See A/HRC/29/37/Add.3, para. 39. See also A/HRC/23/47/Add.1, para. 69.
[47] See A/HRC/23/47/Add.1, para. 103.
[48] See A/HRC/29/37/Add.1, para. 39.
[49] See A/HRC/23/47/Add.1, para. 65.
[50] Ibid., para. 110, and A/HRC/29/37/Add.3, para. 14 and appendix. See also A/HRC/31/56, para. 62, A/HRC/26/38/Add.1, paras. 63-65, and CEDAW/C/IND/CO/4-5, paras. 10-11.
[51] See country team submission, para. 22.
[52] For relevant recommendations, see A/HRC/21/10, paras. 138.37, 138.42-138.43, 138.48-138.50, 138.63, 138.67-138.68, 138.72, 138.79, 138.118, 138.121, 138.123-138.127, 138.131 and 138.169.
[53] See A/HRC/29/37/Add.3, para. 28. See also A/HRC/23/47/Add.1, paras. 43-44.
[54] See A/HRC/23/47/Add.1, para. 45.
[55] See country team submission, para. 35.
[56] See UNESCO submission for the universal periodic review of Morocco, paras. 100 and 106.
[57] See country team submission, paras. 52-53.
[58] See UNESCO submission, para. 105.
[59] Ibid., para. 108.
[60] See CEDAW/C/IND/CO/4-5, para. 13 (g) and (h).
[61] See A/HRC/32/36/Add.3, paras. 297-300.
[62] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20112&LangID=E. For a detailed analysis of the Foreign Contribution Regulation Act, see www.ohchr.org/Documents/Issues/FAssociation/InfoNoteIndia.pdf, and

www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20112&LangID=E#sthash.UHK2fbN3.dpuf.

[63] See CEDAW/C/IND/CO/4-5, para. 25. See also country team submission, paras. 19-21 and annex.

[64] For relevant recommendations, see A/HRC/21/10, paras. 138.5, 138.10, 138.26, 138.28, 138.40, 138.107-138.115 and 138.128.

[65] See CEDAW/C/IND/CO/4-5, para. 22. See also country team submission, paras. 19-21 and annex.

[66] For relevant recommendations, see A/HRC/21/10 and Add.1, para. 138.108 (Ukraine) and A/HRC/21/10, para. 138.109 (Belarus).

[67] UNHCR submission, p. 5.

[68] For relevant recommendations, see A/HRC/21/10, paras. 138.51, 138.74, 138.130, 138.134-138.145 and 138.148.

[69] See A/HRC/34/51/Add.1, para. 5.

[70] See country team submission, para. 86.

[71] Ibid., para. 20.

[72] Ibid., para. 81-82.

[73] See CRC/C/IND/CO/3-4, para. 63 (g).

[74] See country team submission, paras. 83 and 85.

[75] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19861&LangID=E and A/HRC/24/31/Add.1, paras. 7 and 85 (b) (i).

[76] For relevant recommendations, see A/HRC/21/10, paras. 138.54, 138.130, 138.135, 138.146-138.159 and 138.168.

[77] See country team submission, paras. 71-72 and 78.

[78] Ibid., para. 76.

[79] See CEDAW/C/IND/CO/4-5, para. 30, and CRC/C/IND/CO/3-4, para. 63.

[80] See CRC/C/IND/CO/3-4, paras. 63-64.

[81] See A/HRC/30/27, case No. IND 3/2015, and A/HRC/31/79, case No. IND 14/2015.

[82] See country team submission, para. 80.

[83] Ibid., para. 75.

[84] See CRC/C/IND/CO/3-4, para. 66.

[85] For relevant recommendations, see A/HRC/21/10, paras. 138.52, 138.54-138.55, 138.104, 138.115, 138.157-138.158 and 138.160-138.166.

[86] See country team submission, paras. 69 and 70.

[87] Ibid., paras. 66 and 68.

[88] Ibid., paras. 64-70.

[89] Ibid., paras. 19, 65 and 68.

[90] See CEDAW/C/IND/CO/4-5, paras. 26-27.

[91] See CRC/C/IND/CO/3-4, paras. 73-74.

[92] For relevant recommendations, see A/HRC/21/10, paras. 138.2, 138.19, 138.21-138.23, 138.31, 138.37-138.38, 138.41-138.42, 138.54, 138.64, 138.68, 138.71-138.72, 138.74-138.77, 138.79-138.88, 138.102, 138.105-138.106, 138.109, 138.130, 138.144 and 138.150-138.155. See also A/HRC/8/26/Add.1, paras. 86.6, 86.11, 86.13 and 86.17.

[93] See CEDAW/C/IND/CO/4-5, para. 20. See also A/HRC/26/38/Add.1, para. 22.

[94] See A/HRC/26/38/Add.1, para. 21.

[95] Ibid., para. 11.

[96] See country team submission, paras. 15-16 and 56.

[97] See A/HRC/26/38/Add.1, para. 13.

[98] See also A/HRC/21/10, para. 138.2 (Sweden), 138.22 (Finland), 138.23 (Republic of Korea) and 138.31 (Slovenia) and A/HRC/8/26, para. 86.17.

[99] See CEDAW/C/IND/CO/4-5, paras. 38-41. See also A/HRC/26/38/Add.1, para. 78 (b).

[100] See A/HRC/26/38/Add.1, para. 49.

[101] For the relevant recommendation, see A/HRC/21/10, para. 138.41 (Canada).

[102] See A/HRC/26/38/Add.1, para. 49. See also UNHCR submission, pp. 2-3.

[103] UNHCR submission, pp. 2-3.

[104] See country team submission, para. 17 and annex. See also CEDAW/C/IND/CO/4-5, para. 11 (c), CEDAW/C/IND/CO/3, para. 23, and A/HRC/26/38/Add.1, para. 79 (c).

[105] See A/HRC/26/38/Add.1, paras. 59 and 63. See also para. 33.

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